CLERK'S COPY

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1933

No. 783

LOCAL LOAN COMPANY, PETITIONER,

vs.

WILLIAM HUNT.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT.

INDEX.

	Original	Print
Record from D. C. U. S., Northern Illinois	1	1
Placita	(omitted in printing)	
Petition of William Hunt	2	1
Amended answer of Local Loan Co.	5	3
Order or decree of Feb. 8, 1933	8	6
Præcipe for record	11	9
Certificate of clerk	(omitted in printing)	12
Proceedings in U. S. C. C. A., Seventh Circuit	12	10
Notice of appeal	12	10
Petition for appeal	13	11
Assignment of errors	16	13
Order allowing appeal, etc.	18	15
Bond on appeal	(omitted in printing)	19
Citation and service	(" " ")	21
Clerk's certificate	(" " ")	23
Placita	(" " ")	25
Memo in re filing notice of appeal	25	17
Memo in re filing petition for appeal	25	17
Memo in re filing assignment of errors	25	17
Memo in re filing petition for injunction	26	17

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., MARCH 15, 1934.

	Original	Print
Memo in re filing answer to petition	26	18
Memo in re filing decree	26	18
Memo in re filing order allowing appeal and approving bond	26	18
Memo in re filing appeal bond	26	18
Memo in re filing citation	27	18
Appearance of counsel for appellant (omitted in printing)	27	
Appearance of counsel for appellee (" " ")	28	
Notice of motion for substitution of attorneys	29	19
Withdrawal and substitution of attorneys	30	19
Order granting leave for substitution and withdrawal of attorneys	31	20
Appearance of counsel for appellee (omitted in printing)	32	
Minute entry of argument and submission (omitted in printing)	33	
Opinion, per curiam	34	21
Judgment	35	21
Notice of motion for stay of mandate	36	22
Motion for stay of mandate	37	22
Order staying mandate	38	23
Clerk's certificate (omitted in printing)	39	
Order allowing certiorari	40	23

[fols. a–1] Placita omitted in printing

[fol. 2]

IN UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

No. 46600

In the Matter of WILLIAM HUNT, Bankrupt

PETITION—Filed Nov. 14, 1932

To the Honorable George A. Carpenter, Judge of the United States District Court:

Your petitioner, William Hunt, respectfully shows to the court that he is, and was during the times hereinafter mentioned, a citizen and resident of Chicago, Illinois; that prior to and during said times he was and now is employed by the Grand Trunk Western Railroad Company in Chicago, Illinois.

Your petitioner further shows that on September 17, 1930, he borrowed the sum of Three Hundred Dollars ($300) from the Local Loan Company of Chicago, Illinois; that said loan was evidenced by his promissory note payable to said Local Loan Company bearing date September 17, 1930; that at the request of said Local Loan Company he executed an assignment of his wages as security for said loan whereby he assigned a certain portion of his wages to be earned by him in the future; that on, to-wit, January 30, 1931, a copy of said assignment and notice thereof was served by said Local Loan Company on his employer, Grand Trunk Western Railroad Company, Chicago, Illinois, at which time he was still indebted to said Local Loan Company; that on, to-wit, February 12, 1931, [fol. 3] said Local Loan Company notified his said employer in writing that it thereby withdrew the aforesaid notice of assignment of petitioner's wages, thereby releasing all moneys held by his said employer thereunder.

Your petitioner further shows that on March 3, 1931, he filed his voluntary petition in bankruptcy in this court; that he duly scheduled in said proceedings his obligation to said Local Loan Company, which obligation was a prov-

able debt within the Bankruptcy Act; that on March 4, 1931 this court duly issued a restraining order whereby said Local Loan Company, its agents and attorneys, was restrained and enjoined from proceeding further in and about the collection of its claim either at law or in any other manner until further order of this court; that he was duly adjudicated a bankrupt; that on October 10, 1932, an order of discharge was entered by this court.

Your petitioner further shows that thereafter, on, to-wit, October 17, 1932, said Local Loan Company served a notice of the aforesaid assignment of his wages upon his employer, Grand Trunk Western Railroad Company, and on October 18, 1932 filed a suit upon petitioner's aforesaid assignment of wages in the Municipal Court of Chicago, Illinois, entitled Local Loan Company vs. Grand Trunk Western Railroad Company, being case No. 2164688, in which said suit Local Loan Company claims to have served another notice of petitioner's assignment of wages on the Grand Trunk Western Railroad Company on February 20, 1931.

Your petitioner further shows that under the Bankruptcy Act and decisions of the Federal Courts the aforesaid assignment of wages was extinguished; that your petitioner has no adequate remedy at law to preserve the rights secured to him by his adjudication and discharge in the said bankruptcy proceedings; that if said Local Loan Company, its assigns, agents or attorneys, are not permanently enjoined from prosecuting said above mentioned suit or its alleged claim under said assignment of wages, your petitioner will be deprived of the benefits secured to him under the Bankruptcy Act.

Wherefore, your petitioner prays that leave be given to him to file this petition; that an order be entered upon said Local Loan Company requiring it to answer said petition within such time as the court may determine; and prays that upon the hearing of this petition and said answer thereto that an order be entered herein permanently re- [fol. 4] straining and enjoining the said Local Loan Company, its assigns, agents or attorneys, from prosecuting its said suit entitled Local Loan Company vs. Grand Trunk Western Railroad Company, bearing No. 2164688, now pending in the Municipal Court of Chicago, and from proceeding further about the prosecution and enforcement of

its alleged claim upon the aforesaid assignment of wages either in law, equity or in any other manner in so far as such attempted prosecution or enforcement shall relate to wages earned by your petitioner subsequent to the date of the filing of your petitioner's petition to be adjudged a bankrupt, to wit, March 3, 1931, and that pending the disposition of this matter that said Local Loan Company, its agents, and attorneys may be restrained from proceeding further in said suit in the Municipal Court of Chicago.

William Hunt.

Duly sworn to by William Hunt. Jurat omitted in printing.

[fol. 5] IN UNITED STATES DISTRICT COURT

AMENDED ANSWER OF LOCAL LOAN CO., A CORPORATION, TO PETITION FILED BY BANKRUPT ON NOVEMBER 14, 1932—Filed Feb. 8, 1933

Now comes the respondent, Local Loan Co., a corporation, and leave of court having been first asked and obtained, files this its amended answer to the petition of William Hunt, the bankrupt in the above-entitled cause.

This respondent, Local Loan Co., a corporation, by Orville W. Lee, its attorney, represents unto the court that it is a corporation organized under the laws of the State of Delaware and licensed to do business in the State of Illinois, and maintains its principal office at 105 W. Madison Street, Chicago, Illinois. That said corporation is duly licensed to do business under an "Act to license and regulate the business of making loans in sums of three hundred dollars or less, secured or unsecured, at a greater rate of interest than seven per centum per annum, prescribing the rate of interest and charge therefor and penalties for the violation thereof, and regulating the assignment of wages or salaries earned or to be earned, when given as security for any such loan," which act was approved June 14, 1917, L. 1917, p. 553, and amendments thereto; said act is set out in Sections 13 to 18, inclusive, Chapter 74, Smith-Hurd's Illinois Revised Statutes, 1931.

This respondent admits that its claim against said William Hunt on his said note of September 17, 1930, evidenc-

ing a loan in the sum of Three Hundred ($300.00) Dollars from this respondent to the petitioner was duly scheduled in the above bankruptcy proceedings and that it filed no claim against said bankrupt's estate nor made any proof thereof.

This respondent further answering admits that on said September 17, 1930, said William Hunt executed at the same time of the execution of said note said assignment [fol. 6] of wages earned and to be earned by him in the future as security for said loan to the Local Loan Co.

This respondent further answering admits that on, to-wit January 30, 1931, a verified copy of said assignment and notice thereof was served by it on the Grand Trunk Western Railroad Company, and that at the said time said William Hunt was still indebted to said Local Loan Co. in the sum of Two Hundred Sixty-nine and 55/100 ($269.55) Dollars, having paid on said loan the sum of Thirty and 45/100 ($30.45) Dollars. This respondent further alleges that the balance of said loan has never at any time been repaid to it.

This respondent further answering admits that on February 12, 1931, it notified said Grand Trunk Western Railroad Company in writing that it thereby withdrew the aforesaid notice of assignment, thereby releasing all money held by said railroad thereunder.

This respondent further answering admits that on March 3, 931, the said William Hunt filed his voluntary petition in bankruptcy in this court and that he duly scheduled in said proceedings his said obligation to this respondent as evidenced by said note, which was a provable debt within the Bankruptcy Act, and admits that on March 4, 1931, a restraining order was duly issued out of this Court whereby this respondent, its agents and attorneys were restrained and enjoined from proceeding further in and about the collection of this claim either at law or in any other manner until the further order of this court, and that on October 10, 1932, an order discharging the bankrupt from all of his provable debts was entered by this court.

This respondent further represents that hereafter on, to-wit, October 17, 1932, it served a notice and verified copy of the aforesaid assignment of wages upon the Grand Trunk Western Railroad Company, which said notice of

assignment has never been withdrawn or released by this respondent, and represents that on October 18, 1932, it filed a suit in the Municipal Court of Chicago entitled "Local Loan Company, a corporation, vs. Grand Trunk Western Railroad Company, a corporation, case No. 2164688", in which said suit this respondent claimed to have served another notice of its assignment of wages on the Grand Trunk Western Railroad Company on February 20, 1931, and sought to recover under the aforesaid assignment of wages.

This respondent further represents that said William Hunt was not made a party to said suit, but that said [fol. 7] William Hunt had due notice thereof as provided by statute and has a right to intervene in said suit pending in the Municipal Court of Chicago and to assert whatever rights or defenses he might have to said action, pursuant to Section 18 of Chapter 110 of Smith-Hurd's Illinois Revised Statutes, 1931; that said William Hunt had and has no defense to said action based on said assignment of wages except a plea of his discharge in Bankruptcy which defense under the law of Illinois is not recognized as a legal defense in said suit in the Municipal Court of Chicago or State Courts of Illinois; and that the said Grand Trunk Western Railroad Company had and has no defense to said suit in said Courts based upon a plea of discharge of said William Hunt, because such defense is not recognized as a legal defense to said Grand Trunk Western Railroad Company in said suit under the law of Illinois.

This respondent admits unto the Court that on October 10, 1932, an order of discharge was entered in the above-entitled cause by this honorable court, and says, therefore, that the said cause is now disposed of, and this honorable court has no further jurisdiction of the parties or the subject matter, and has no power under the law or ex proprio vigore thereafter to enter a restraining order either temporarily or permanently restraining this respondent.

This respondent further answering says that the petitioner seeks to have an order entered permanently restraining and enjoining this respondent, contrary to the United States Bankruptcy Laws, which provide only for a stay pending the discharge or until the expiration of such

time as is allowed to the bankrupt to apply for his discharge.

This respondent further answering says that since the bankrupt has received a discharge, the Court, by the limitation of the Bankruptcy Act itself, has no legal authority to enlarge the scope of such discharge, and the bankrupt's only remedy after discharge is to set up such discharge in any action taken against him.

This respondent, therefore, submits that the prayer of the petition of the bankrupt herein should be denied and the bankrupt's petition dismissed.

Local Loan Co., a Corporation, by Orville W. Lee,
Its Attorney.

[fol. 8] IN UNITED STATES DISTRICT COURT

ORDER OR DECREE—Entered Feb. 8, 1933

This Matter Coming on to be heard on the duly verified petition of William Hunt filed herein on November 14, 1932, and the amended answer of the Local Loan Co., a corporation, filed February 8, 1933, to said petition, the Court, after considering said petition and amended answer, and the arguments of counsel for both of said parties, no evidence having been offered by either party, and being now fully advised in the premises, finds:

(a) That it has jurisdiction of the parties, the said William Hunt and the said Local Loan Co., a corporation.

(b) That the said Local Loan Co. is a corporation organized under the laws of the State of Delaware, and licensed to do business in the State of Illinois, and maintains its principal office at 105 West Madison Street, Chicago, Illinois. That said corporation is duly licensed to do business under an "Act to license and regulate the business of making loans in sums of Three Hundred ($300.00) Dollars or less, secured or unsecured, at a greater rate of interest than Seven (7%) per centum per annum, prescribing the rate of interest and charge therefor and penalties for the violation thereof, and regulating the assignment of wages or salaries earned or to be earned, when given as security for any such loan," which act was approved June 14, 1917, L. 1917, p. 553, and amendments

thereto; said act is set out in Sections 13 to 18 inclusive, Chapter 74, Smith-Hurd's Illinois Revised Statutes, 1931;

(c) That it has jurisdiction of the subject matter; and

(d) That said William Hunt now is and was during the times hereinafter mentioned a citizen and resident of Chicago, Illinois; that prior to and during said times he was and now is and continuously since the giving of the assign- [fol. 9] ment on September 17, 1930, hereinafter referred to, has been employed by the Grand Trunk Western Railroad Company, a corporation, in Chicago, Illinois;

That on September 17, 1930, said William Hunt borrowed the sum of Three Hundred ($300.00) Dollars from the Local Loan Company of Chicago, Illinois; that the said loan was evidenced by his promissory note payable to said Local Loan Company bearing date September 17, 1930; that on said September 17, 1930, he executed an assignment of his salary and wages earned and to be earned by him with said Grand Trunk Western Railroad Company as security for said loan; that on, to-wit January 30, 1931, a verified copy of said assignment and notice thereof was served by said Local Loan Company on his employer, said Grand Trunk Western Railroad Company, Chicago, Illinois, at which time he was still indebted to said Local Loan Company; that on, to-wit, February 12, 1931, said Local Loan Company notified his said employer in writing that it thereby withdrew the aforesaid notice of assignment of said William Hunt's wages, thereby releasing all moneys held by his said employer thereunder;

That on March 3, 1931, said William Hunt filed his voluntary petition in bankruptcy in this court; that he duly scheduled in said proceedings his obligation to said Local Loan Company, as evidenced by his said note, which obligation was a provable debt within the Bankruptcy Act; that no claim thereon was filed by the Local Loan Co. in said cause nor any proof taken thereon; that on March 4, 1931, this Court duly issued a restraining order in usual form, whereby said Local Loan Company, its agents and attorneys, were restrained and enjoined from proceeding further in and about the collection of its claim either at law or in any other manner until further order of this Court; that on March 6, 1931, the bankrupt herein was duly adjudicated a bankrupt; that on October 10, 1932, an order of discharge

from all provable debts was entered by this Court in usual form;

That thereafter on, to-wit, October 17, 1932, said Local Loan Company served a notice and verified copy of the aforesaid assignment of said William Hunt's wages upon his employer, Grand Trunk Western Railroad Company, which has not been withdrawn or released by said Local Loan Co., and on October 18, 1932, said Local Loan Co. filed a suit upon said William Hunt's aforesaid assignment of wages in the Municipal Court of Chicago, Illinois, entitled Local Loan Company vs. Grand Trunk Western Rail-
[fol. 10] road Company, being case No. 2164688, which said suit is still pending and undisposed of, said William Hunt not being a party thereto.

That said William Hunt had a right to intervene in said suit pending in the Municipal Court of Chicago and to assert whatever rights or defenses he might have to said action, pursuant to Section 18 of Chapter 110 of Smith-Hurd's Illinois Revised Statutes 1931; that said William Hunt had and has no defense to said action based on said assignment of wages except a plea of his discharge in bankruptcy, which defense, under the law of Illinois, is not recognized as a legal defense in said suit in the Municipal Court of Chicago or State Courts of Illinois; and that the said Grand Trunk Western Railroad Company had and has no defense to said suit in said Court based upon a plea of discharge of said William Hunt, because such defense is not recognized as a legal defense to said Grand Trunk Western Railroad Company in said suit under the law of Illinois.

It Is Therefore Ordered, Adjudged And Decreed that the Local Loan Company, a corporation, be and it is hereby ordered to withdraw any and all notices of the assignment of wages by said William Hunt to the Local Loan Company on September 17, 1930, heretofore served by said Local Loan Company, a corporation, on the Grand Trunk Western Railroad Company, a corporation, within ten days from the date of this order; that the said Local Loan Company, a corporation, its assigns, agents or attorneys be and they are hereby permanently restrained and enjoined from prosecuting the suit now pending in the Municipal Court of Chicago entitled "Local Loan Company, a corporation, vs. Grand Trunk Western Railroad Company, a corporation,

case No. 2164688"; that said Local Loan Company, a corporation, its assigns, agents and attorneys, be and they hereby are permanently restrained and enjoined from proceeding further in and about the prosecution and enforcement of the claim of the said Local Loan Company by virtue of the assignment of wages signed by William Hunt on September 17, 1930, and by him delivered to said Local Loan Company, either in law, equity or in any other manner insofar as such attempted prosecution or enforcement shall relate to wages earned by said William Hunt subsequent to March 6, 1931.

Enter:

Carpenter, Judge of the United States District Court.

Dated this 8th day of February, A. D. 1933.

[fol. 11] To the entry of which order the respondent, Local Loan Company, a corporation, by its counsel duly objects, and said objection having been overruled, duly excepts.

Enter:

Carpenter, Judge of the United States District Court.

8 Feb., 1933.

IN UNITED STATES DISTRICT COURT

PRÆCIPE FOR RECORD

To the Honorable Clerk of the District Court of the United States for the Northern District of Illinois, Eastern Division:

Whereas an appeal has been taken by the aforesaid appellant, Local Loan Co., from an order and decree heretofore on, to-wit, February 8, 1933 entered by the District Court of the United States, for the Northern District of Illinois, Eastern Division, in the matter of William Hunt, Bankrupt, heretofore pending in said District Court of the United States, for the Northern District of Illinois, under No. 46600;

Now, Therefore, in making up the transcript of record for the Circuit Court of Appeals for the Seventh Circuit in connection with said appeal, will you kindly include therein—

1. Petition of William Hunt, Bankrupt, filed November 14, 1932.
2. Amended answer of Local Loan Co. to said petition filed on February 8, 1933.
3. Order and decree of the District Court of the United States entered by the Honorable George A. Carpenter, Judge of said District Court on February 8, 1933.
4. Citation and receipt of service.
5. Copy of præcipe and receipt of service.

Frederic Burnham, David F. Rosenthal, Orville W. Lee, Attorneys for Appellant, Local Loan Co.

Received a copy of the foregoing Præcipe this 24th day of February, 1933.

Wilson & McIlvaine, Attorneys for William Hunt, Appellee.

[fol. 12] Clerk's Certificate to foregoing transcript omitted in printing.

IN UNITED STATES CIRCUIT COURT OF APPEALS, SEVENTH CIRCUIT

NOTICE OF APPEAL.—Filed Feb. 18, 1933

To Wilson & McIlvaine, Attorneys for William Hunt, Bankrupt:

You are hereby Notified that we intend to present to the Circuit Court of Appeals for the Seventh Circuit, a petition for appeal from the order heretofore entered herein on February 8, 1933, enjoining and restraining Local Loan Co. from the further prosecution of a certain suit pending in the Municipal Court of Chicago, based upon the assignment of future wages of said William Hunt.

Local Loan Co., by Frederic Burnham, David F. Rosenthal, Orville W. Lee.

We hereby acknowledge receipt of a copy of the foregoing petition for appeal this 17th day of February, 1933, and waive further notice of the exact time of presentation of said petition to said Circuit Court of Appeals, and our right, if any, to be present at the presentation thereof.

Wilson & McIlvaine, Attorneys for Appellee, said William Hunt, Bankrupt.

[fol. 13] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

In the Matter of WILLIAM HUNT, Bankrupt, Formerly Pending in the District Court of the United States under No. 46,600

PETITION FOR APPEAL—Filed Feb. 18, 1933

To the Honorable Judges of the Circuit Court of Appeals for the Seventh Circuit:

Your petitioner, Local Loan Co., a corporation, represents that on, to-wit, November 10, 1932, William Hunt, the aforesaid bankrupt, filed his petition in The Matter of William Hunt, Bankrupt, which matter had theretofore been pending in the United States District Court, for the Northern District of Illinois, Eastern Division thereof, under No. 46,600; that a certified copy of said petition is hereto attached, marked Exhibit "A" and by reference incorporated herein, the same as though fully set forth; that in and by said petition said William Hunt represented that on September 17, 1930, he borrowed, at Chicago, Illinois, the sum of Three Hundred Dollars ($300) from the Local Loan Co., a corporation, your petitioner herein, evidencing said loan by a note and securing the same by an assignment of his wages earned and to be earned; that on March 3, 1931, he filed his voluntary petition in bankruptcy, and scheduled said claim of said Local Loan Co.; that on October 10, 1932, he was discharged in bankruptcy by an order of said United States District Court; that on October 17, 1932, said Local Loan Co. served notice of the aforesaid assignment upon said Hunt's employer, and filed a suit upon said assignment in the Municipal Court of Chicago, under No. 2164688, wherein said Local Loan Co. was plaintiff and Grand Trunk Western Railroad Company, said Hunt's employer, was defendant; and said petitioner Hunt claimed in and by said petition that under the Bankruptcy Act and decisions of the Federal courts, said assignment of wages had been extinguished by his discharge [fol. 14] in bankruptcy, and prayed that the further prosecution of said suit in said Municipal Court of Chicago be enjoined.

Your petitioner, Local Loan Co., further represents that it duly filed its answer and also its amended answer to

said petition of said William Hunt, a copy of which said amended answer is hereto attached, marked Exhibit "B" and incorporated herein by reference, the same as though fully set forth herein; that in and by said answer, said Local Loan Co. set forth that it did not file or prove its claim against said Hunt in said bankruptcy case; that said Hunt had a right under the Statutes of the State of Illinois, to intervene in said case brought upon said assignment in the Municipal Court of Chicago, as aforesaid, and to present there whatever rights or defenses he might have to said action; that said Hunt had and has no defense to said action on said assignment of wages, except a plea of his discharge in bankruptcy; that said defense, under the laws of Illinois, is not recognized as a legal defense under the circumstances aforesaid; and that the defendant in said case so pending in the Municipal Court, as aforesaid, had and has no defense to said suit for the same reason; and your petitioner in said answer further averred that by limitation of the Bankruptcy Act itself, said District Court has no legal authority to enlarge the scope of such discharge, and that the bankrupt's only remedy after discharge is to set up such discharge in any action taken against him.

Your petitioner further represents that said matter came on to be heard on said petition of said William Hunt and the aforesaid amended answer of Local Loan Co., your petitioner herein; that no evidence was taken; that there was no dispute as to any of the facts; that briefs and arguments were submitted by counsel for both parties, and that the court thereafter on the 8th day of February 1933, entered its order, finding, among other things, the facts herein set forth, and ordering, adjudging and decreeing that said Local Loan Co., within ten days from the date of this order, withdraw any and all notices of the aforesaid assignment of wages made by said William Hunt, as aforesaid, and served upon the employer of said William Hunt, as aforesaid, and permanently enjoined and restrained said Local Loan Co., a corporation, from prosecuting the aforesaid suit now pending in said Municipal Court of Chicago, and from enforcing the claim of said Local Loan Co. by virtue of said assignment, in so far as such attempted prosecution or enforcement should relate to wages earned by said Hunt subsequent to March 6, 1931, a certified copy of which

[fol. 15] said order is hereto attached, marked Exhibit "C" and by reference thereto incorporated herein, the same as though fully set forth herein.

That your petitioner duly objected to the entry of such decree, and upon such objection being duly overruled, duly accepted.

Wherefore, your petitioner, Local Loan Co., a corporation, feeling itself aggrieved by said order of said United States District Court made and entered on February 8, 1933, as aforesaid, in the Matter of William Hunt, Bankrupt, No. 46,600, in the United States District Court for the Northern District of Illinois, Eastern Division thereof, does hereby appeal from said order and decree for the reasons specified in the Assignment of Errors filed herewith and hereto attached.

Wherefore, Also, said Local Loan Co., a corporation, prays that its said appeal be allowed, and that a citation be issued as provided by law, directed to said William Hunt, commanding him to appear before said United States Circuit Court of Appeals, to do and receive what may appertain to justice to be done in the premises, and that a transcript of the record and all proceedings in the case, and upon which said order and decree was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Seventh Circuit, sitting at Chicago, Illinois, under the rules of such court in such case made and provided; and your petitioner further prays that a proper order relating to the required security to be required of it be made, and that execution of said order and decree be stayed herein, and that said appeal may operate as a supersedeas.

And your petitioner shows that it has given to Wilson & McIlvaine, attorneys for said William Hunt, its opponent and adversary in this proceeding, due notice of this petition for appeal, and of its intention to present the same, and has served said attorneys with a copy of this petition for appeal and the Assignment of Errors attached thereto, and has received an acknowledgment of the receipt thereof, and a waiver of notice of the exact time of presentation, and of the right, if any, to be present at said presentation.

Local Loan Co., by Thomas D. Griffin, Vice President. Frederic Burnham, David F. Rosenthal, Orville W. Lee, Attorneys for Local Loan Co.

[fol. 16] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[Title omitted]

ASSIGNMENT OF ERRORS—Filed Feb. 18, 1933

Now comes Local Loan Co., a corporation, petitioner in the foregoing petition for appeal, by Frederic Burnham, David F. Rosenthal and Orville W. Lee, its attorneys, and presents and files this its Assignment of Errors, on which it will rely upon its prosecution of its appeal in said cause from the order and decree entered by said United States District Court, for the Northern District of Illinois, in the Matter of William Hunt, Bankrupt, No. 46,600, and says that in the record and proceedings, and also in the said decree, there are manifest errors, as follows:

1. The District Court erred in holding that it had jurisdiction of said William Hunt and said Local Loan Co., a corporation, the parties to the petition filed on November 14, 1932, to enjoin and restrain Local Loan Co. from proceeding with the prosecution of a suit brought by said Local Loan Co. upon an assignment of wages made by said Hunt prior to his discharge in bankruptcy, and from enforcing said assignment of wages in any way.

2. The said District Court erred in holding that it had jurisdiction of the subject matter of said petition.

3. The said District Court erred in failing to hold that it did not have jurisdiction of the subject-matter of said petition.

4. The said District Court erred in failing to hold that said assignment had not been discharged by the order discharging said William Hunt in bankruptcy.

5. The said District Court erred in not holding that said assignment was in full force and effect in spite of the discharge of said William Hunt in bankruptcy.

6. Said District Court erred in not holding that the lien of an assignment of future wages is a property right in Illinois, and not dischargeable in bankruptcy.

[fol. 17] 7. The said District Court erred in not holding that it was bound to follow the decisions of the Supreme

Court of Illinois holding that an assignment such as that in the case at bar, made more than four months before adjudication in bankruptcy, and given to secure an indebtedness, creates a lien on future wages, which is not dischargeable in bankruptcy.

8. The said District Court erred in permanently enjoining and restraining said Local Loan Co. from prosecuting the suit now pending in the Municipal Court of Chicago entitled, Local Loan Co., a corporation, v. Grand Trunk Western Railroad Company, a corporation, Case No. 2164688.

9. The said District Court erred in permanently enjoining and restraining said Local Loan Co. from proceeding further in and about the prosecution and enforcement of the claim of said Local Loan Co. by virtue of the assignment of wages assigned by William Hunt on September 17, 1930.

10. The order and decree of said District Court entered on February 8, 1933, is contrary to the law.

Frederic Burnham, David F. Rosenthal, Orville W. Lee, Attorneys for Local Loan Co., Appellant.

(Attached hereto are certified copies of amended answer of Local Loan Co. and order of Feb. 8, 1933, and petition filed Nov. 14, 1932, in the U. S. District Court, which appear elsewhere in this printed record and are not reproduced here.)

[File endorsement omitted.]

[fol. 18] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[Title omitted]

ORDER ALLOWING APPEAL, ETC.—Entered and Filed Feb. 18, 1933

This Cause coming on to be heard this day upon the petition for appeal by Local Loan Co., a corporation, from the order and decree heretofore entered on February 8, 1933,

in the matter of William Hunt, Bankrupt, by the District Court of the United States for the Northern District of Illinois, Eastern Division, enjoining and restraining said Local Loan Co. from prosecuting a certain suit pending in the Municipal Court of Chicago under No. 2164688, the Court having read said petition and being fully advised in the premises, doth Order that the appeal of said Local Loan Co. be and the same is hereby allowed upon the filing of a bond with good and sufficient security in the sum of $250, to be approved by this Court, and said bond with surety having been presented, the same is hereby approved, and the Court doth further Order that a citation issue as provided by law, directed to said appellee, William Hunt, commanding him to appear before the United States Circuit Court of Appeals to do and receive what may appertain to justice to be done in the premises and that a transcript of the record and all proceedings in the case and upon which said order and decree is based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Seventh Circuit, sitting at Chicago, Illinois, under the rules of said Court in such case made and provided, and the Court doth further Order and Decree that the execution of said order and decree appealed from be and the same is hereby stayed, and that said appeal operate as a supersedeas.

[fols. 19 & 20] Bond on Appeal for $250.00, approved and filed Feb. 18, —, omitted in printing.

[fols. 21 & 22] Citation in usual form showing service on Wilson & McIlvaine, filed Feb. 21, 1933, omitted in printing.

[fols. 23 & 24] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 25] Placita omitted in printing

IN UNITED STATES CIRCUIT COURT OF APPEALS; SEVENTH CIRCUIT

4936

In the Matter of WILLIAM HUNT, Bankrupt

LOCAL LOAN COMPANY, a Corporation,

vs.

WILLIAM HUNT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

MEMORANDA IN RE FILING OF CERTAIN PAPERS

And on, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court a notice of appeal, which said notice of appeal is not copied here, as the same appears on page 12 of the printed record in this cause, certified herewith.

And on the same day, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court a petition for appeal, which said petition for appeal is not copied here, as the same appears on pages 13 to 15, inclusive, of the printed record in this cause, certified herewith.

And on the same day, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court an assignment of errors, which said assignment of errors is not copied here, as the same appears on pages 16 and 17 of the printed record in this cause, certified herewith.

[fol. 26] And on the same day, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court a certified copy of petition of William Hunt, filed in the District Court on November 14, 1932, which said certified copy of petition is not copied here, as the same appears on pages 2 to 4, inclusive, of the printed record in this cause, certified herewith.

And on the same day, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court a certified copy of the amended answer of Local Loan Company, filed in the District Court on February 8, 1933, which said certified copy of the amended answer is not copied here, as the same appears on pages 5 to 7, inclusive, of the printed record in this cause, certified herewith.

And on the same day, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court a certified copy of order or decree, entered on February 8, 1933, in the District Court, which said certified copy of order or decree is not copied here, as the same appears on pages 8 to 10, inclusive, of the printed record in this cause, certified herewith.

And on the same day, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court an order allowing appeal and approving bond, which said order allowing appeal and approving bond is not copied here, as the same appears on pages 18 and 19 of the printed record in this cause, certified herewith.

And on the same day, to-wit: On the eighteenth day of February, 1933, there was filed in the office of the Clerk of this court the appeal bond of Local Loan Company, which said appeal bond is not copied here, as the same appears on pages 19 and 20 of the printed record in this cause, certified herewith.

[fols. 27 & 28] And afterwards, to-wit: On the twenty-first day of February, 1933, there was filed in the office of the Clerk of this court a citation on appeal, which said citation is not copied here, as the same appears on page 21 of the printed record in this cause, certified herewith.

Appearances of counsel omitted in printing.

[fol. 29] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[Title omitted]

NOTICE OF MOTION FOR SUBSTITUTION OF ATTORNEYS—Filed April 21, 1933

To Hon. Frederic Burnham, Hon. David F. Rosenthal, 231 South La Salle Street, Chicago, Illinois; Hon. Orville W. Lee, 105 West Madison Street, Chicago, Illinois:

Please take notice that on Friday, the 21st day of April, A. D. 1933, at 9:30 o'clock in the forenoon or as soon thereafter as counsel can be heard before the United States Circuit Court of Appeals, or before such of the Judges of said Court as shall then be sitting in Chambers, being Room No. 752, Federal Building, Chicago, Illinois, the undersigned will move for leave to be substituted in the place and stead of Silas H. Strawn, Frank H. Towner and Guy A. Gladson as attorneys for William Hunt, Bankrupt, Appellee, at which time and place you may appear if you so see fit. Said motion is supported by a voluntary withdrawal and substitution of attorneys, copy of which motion is handed you herewith.

Lloyd A. Faxon, 231 South La Salle Street. Harry F. Wiggins, 231 South La Salle Street.

[fol. 30] Received a copy of the foregoing notice this 20th day of April, A. D. 1933.

Frederick Burnham, David F. Rosenthal, Orville W. Lee.

[File endorsement omitted.]

IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

[Title omitted]

WITHDRAWAL AND SUBSTITUTION OF ATTORNEYS—Filed April 21, 1933

We hereby withdraw as attorneys for the Appellee, William Hunt, in the above entitled cause.

Silas H. Strawn, Frank H. Towner, Guy A. Gladson.

We hereby enter our appearance as attorneys for the Appellee, William Hunt, in the above entitled cause.

Floyd A. Faxon, Harry F. Wiggins, 231 South La Salle Street, Dearborn 2306.

[fol. 31] I hereby consent to the withdrawal of Silas H. Strawn, Frank H. Towner and Guy A. Gladson as my attorneys in the above entitled cause and the substitution of Lloyd A. Faxon and Harry F. Wiggins as my attorneys in the above entitled cause.

William Hunt, Appellee.

Approved:

———, Judge.

[File endorsement omitted.]

In United States Circuit Court of Appeals

[Title omitted]

Order Granting Leave for Substitution and Withdrawal of Attorneys—April 21, 1933

It is ordered by the court that leave be granted to Silas H. Strawn, Frank H. Towner and Guy A. Gladson to withdraw their appearance as counsel for appellee in this cause; and leave is hereby granted to Lloyd A. Faxon and Harry F. Wiggins to enter their appearance as counsel for said appellee.

[fol. 32] Appearance of counsel omitted in printing.

[fol. 33] Minute entry of argument and submission, Nov. 14, 1933, omitted in printing.

[fol. 34] IN UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT, OCTOBER TERM AND SESSION, 1933

No. 4936

In the Matter of WILLIAM HUNT, Bankrupt

LOCAL LOAN COMPANY, a Corporation, Appellant,

vs.

WILLIAM HUNT, Appellee

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

OPINION—Filed November 17, 1933

Before Alschuler, Evans, and Sparks, Circuit Judges

Per CURIAM:

The only material difference in the questions presented in this case and those presented in No. 4899, In re Edward W. Skorez, Bankrupt, Trustees System Reinco Company v. Edwards W. Skorez, decided by this court on June 24, 1933, is that in the case at bar, bankrupt had already secured his discharge, while in the Skorez case, bankrupt's petition for a discharge was pending. The distinction we think can make no difference, and the order of the District Court in the instant case is affirmed on the authority of the decision in the Skorez case and the cases therein cited.

[fol. 35] IN UNITED STATES CIRCUIT COURT OF APPEALS, SEVENTH CIRCUIT

4936

In the Matter of WILLIAM HUNT, Bankrupt

LOCAL LOAN COMPANY, a Corporation,

vs.

WILLIAM HUNT

Appeal from the District Court of the United States for the Northern District of Illinois, Eastern Division

JUDGMENT—Nov. 17 1933

This cause came on to be heard on the transcript of the record from the District Court of the United States for the

Northern District of Illinois, Eastern Division, and was argued by counsel.

On consideration whereof: It is now here ordered, adjudged and decreed by this court that the order or decree of the said District Court in this cause appealed from be, and the same is hereby affirmed with costs.

[fol. 36] In United States Circuit Court of Appeals for the Seventh Circuit

[Title omitted]

Notice of Motion for Stay of Mandate—Filed Dec. 7, 1933

To Lloyd A. Faxon, Harry F. Wiggin, 1026 No. 231 S. La Salle Street, Chicago, Illinois, Counsel for Appellee:

You are Hereby Notified that we shall on Thursday, December 7, 1933, at the hour of 9:30 o'clock A. M., or as soon thereafter as court shall convene, appear before the Circuit Court of Appeals for the Seventh Circuit and ask that the issuance of the mandate in the above-entitled cause be stayed until appellant's time for filing a petition for certiorari in the Supreme Court of the United States to review the judgment herein has expired, or, if appellant within such time shall file such a petition in the Supreme Court of the United States, then until the case is finally disposed of in said Supreme Court.

Frederic Burnham, David F. Rosenthal, Orville W. Lee, Counsel for Appellant.

Received a copy of the above and foregoing notice this 6th day of December, 1933.

Lloyd A. Faxon, Harry F. Wiggins, Counsel for Appellee.

[File endorsement omitted.]

[fol. 37] In United States Circuit Court of Appeals for the Seventh Circuit

[Title omitted]

Motion for Stay of Mandate—Filed Dec. 7, 1933

Now comes the appellant herein, by its counsel, Frederic Burnham, David F. Rosenthal and Orville W. Lee, and

moves the court that the issuance of the mandate in the above-entitled cause be stayed until appellant's time for filing a petition for certiorari in the Supreme Court of the United States to review the judgment herein has expired, or, if appellant within such time shall file such a petition in the Supreme Court of the United States, then until the case is finally disposed of in said Supreme Court.

Frederic Burnham, David F. Rosenthal, Orville W. Lee, Counsel for Appellant.

[File endorsement omitted.]

[fol. 38] In United States Circuit Court of Appeals

[Title omitted]

Order Staying Mandate—Dec. 7, 1933

Now this day comes counsel for appellant and presents a motion for a stay of the mandate of this court, pending a petition to the Supreme Court of the United States for a writ of certiorari.

On consideration whereof: It is now here ordered that the mandate in this cause be, and the same is hereby stayed until the further order of this court.

It is further ordered that counsel for appellant proceed with diligence and promptly file the petition for a writ of certiorari in the Supreme Court of the United States and, upon the filing of said petition file in this court proof of the filing of said petition in said court.

[fol. 39] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 40] Supreme Court of the United States

Order Allowing Certiorari—Filed March 12, 1934

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted. And it is further ordered that the duly certified copy of the transcript of the proceedings below which ac-

companied the petition shall be treated as though filed in response to such writ.

Endorsed on cover: File No. 38,386. U. S. Circuit Court of Appeals, Seventh Circuit. Term No. 783. Local Loan Company, petitioner, vs. William Hunt. Petition for a writ of certiorari and exhibit thereto. Filed February 12, 1934. File No. 783, O. T., 1933.